

**A RESOLUTION
BY PUBLIC SAFETY AND LEGAL
ADMINISTRATION COMMITTEE**

02-R-0236

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO UNDERTAKE SETTLEMENT OF ALL CLAIMS ARISING FROM THE CASE OF *PRIVATE MINI STORAGE REALTY, L.P. V. CITY OF ATLANTA*, PENDING IN THE SUPERIOR COURT OF FULTON COUNTY, CIVIL ACTION FILE NO. 2001CV34504 FOR THE AMOUNT OF \$183,392.50; AUTHORIZING THE CHIEF FINANCIAL OFFICER TO DISBURSE THE SETTLEMENT AMOUNT; AND FOR OTHER PURPOSES.

WHEREAS, Private Mini Storage, L.P. purchased 2.7 acres at 2175 Piedmont Road in the City of Atlanta; and

WHEREAS, there was a pre-existing easement for a sewer on said property which interfered with the plans of Private Mini Storage to construct a new building on said property; and

WHEREAS, the City of Atlanta conditioned the issuance of a building permit on the agreement by Private Mini Storage to relocate said sewer line on the property and enlarge it from a 42 inch pipe to a 60 inch pipe; and

WHEREAS, the City of Atlanta derived a benefit from the enlargement and construction of this new sewer line which replaced one that was approximately 70 years old; and

WHEREAS, because of this benefit City of Atlanta officials discussed a cost sharing agreement with Private Mini Storage; and

WHEREAS, since no agreement was ever reached to share in the cost of the enlargement and construction of this new sewer line Private Mini Storage filed the above reference lawsuit; and

WHEREAS, during the course of litigation, the Judge to whom the case was assigned referred it to the Civil Arbitration Program; and



WHEREAS, the September 21, 2001, arbitration hearing resulted in an award in favor of Private Mini Storage in the amount of \$350,000.00 on its claim of unjust enrichment; and

WHEREAS, Private Mini Storage has offered to settle its claims against the City of Atlanta for the sum of \$183,359.50, which is 50% of the total cost of the sewer replacement project; and

WHEREAS, the City Attorney has undertaken an extensive review of the law and facts applicable to this case and has determined that the City's potential financial exposure exceeds the proposed settlement amount; and

WHEREAS, based on the foregoing, the City Attorney recommends that the settlement offer of \$183,359.50 be accepted.

THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The City Attorney is hereby authorized to settle all claims arising from the case of Private Mini Storage Realty, L.P. v. City of Atlanta, Superior Court of Fulton County, Civil Action File No. 2001CV34504, for the sum of One Hundred and Eighty Three Thousand, Three Hundred and Fifty-Nine Dollars and Fifty Cents (\$183,359.50).

SECTION 2. The Chief Financial Officer is authorized to pay a total sum of \$183,359.50 to Private Mini Storage and their attorney Harry J. Winograd from Account No. 2J21529017T31001.

A true copy


Deputy Clerk

ADOPTED by the Council
APPROVED by the Mayor

FEB 18, 2002
MAR 05, 2002

RCS# 3453
2/18/02
2:38 PM

Atlanta City Council

Regular Session

CONSENT I

Except:0151; 0204; 0235; 0238; 0259;
0260; 0255; 0205; 0206; 0207; 0208
ADOPT

YEAS: 14
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 0

SEE ATTACHED LISTING OF
ITEMS ADOPTED/ADVERSED
ON CONSENT AGENDA

| | | | |
|-----------|-------------|-----------|------------|
| Y Smith | Y Archibong | Y Moore | Y Mitchell |
| Y Starnes | NV Fauver | Y Martin | Y Norwood |
| Y Young | Y Shook | Y Maddox | Y Willis |
| Y Winslow | Y Muller | Y Boazman | NV Woolard |

ITEM (S) REMOVED FROM
CONSENT AGENDA
02-O-0255
02-R-0204
02-R-0206
02-R-0235
02-R-0238

CORRECTED COPY

CONSENT I

02/18/02 Council Meeting

**ITEMS ADOPTED ON
CONSENT AGENDA**

1. 02-O-0151
2. 02-O-0162
3. 02-O-0239
4. 02-O-0188
5. 02-O-0189
6. 02-O-0269
7. 02-O-0259
8. 02-O-0260
9. 02-O-0154
10. 02-O-0156
11. 02-O-0157
12. 02-O-0158
13. 02-O-0148
14. 02-R-0201
15. 02-R-0202
16. 02-R-0236
17. 02-R-0205
18. 02-R-0207
19. 02-R-0208
20. 02-R-0195
21. 02-R-0196
22. 02-R-0234
23. 02-R-0241
24. 02-R-0210
25. 02-R-0211
26. 02-R-0212
27. 02-R-0213
28. 02-R-0214
29. 02-R-0215
30. 02-R-0216
31. 02-R-0217
32. 02-R-0218

**ITEMS ADVERSED ON
CONSENT AGENDA**

33. 02-R-0219
 34. 02-R-0220
 35. 02-R-0221
 36. 02-R-0222
 37. 02-R-0223
 38. 02-R-0224
 39. 02-R-0225
 40. 02-R-0226
 41. 02-R-0227
 42. 02-R-0228
 43. 02-R-0229
 44. 02-R-0230
 45. 02-R-0231
 46. 02-R-0232
-

02-R-0236

(Do Not Write Above This Line)

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LEGAL ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING THE CITY
ATTORNEY TO UNDERTAKE SETTLEMENT
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2001CV34504 FOR THE AMOUNT OF
\$183,392.50; AUTHORIZING THE CHIEF
FINANCIAL OFFICER TO DISBURSE THE
SETTLEMENT AMOUNT; AND FOR OTHER
PURPOSES.

ADOPTED BY

FEB 18 2002

APPROVED BY:

Rosalind Rubens
Deputy City Attorney

- ☐ CONSENT REFER
☐ REGULAR REPORT REFER
☐ ADVERTISE & REFER
☐ 1st ADOPT 2nd READ & REFER
☐ PERSONAL PAPER REFER

Date Referred

Referred To:

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee

Date

Chair

Referred to

P.S. & L.A.

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

FINAL COUNCIL ACTION

☐ 3rd

☐ 1st & 2nd

Readings

☒ Consent ☐ V Vote ☒ RC Vote

CERTIFIED

CERTIFIED

FEB 18 2002

ATLANTA CITY COUNCIL PRESIDENT

Catherine W. Woodard

CERTIFIED

FEB 18 2002

Ruth Davidson Johnson
MUNICIPAL CLERK

MAYOR'S ACTION

Shirley Franklin

MAR 05 2002